

Human Rights in the Perspective of Sharia and International Law

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Abstract

The relationship between Sharia and international human rights law has long been the subject of both scholarly debate and political controversy. While international law, particularly since the adoption of the Universal Declaration of Human Rights (1948), emphasizes universality and individual autonomy, Sharia derives its legitimacy from divine revelation and integrates duties with rights in a theocentric paradigm. These different foundations often generate tensions, especially in areas such as gender equality, freedom of religion, and freedom of expression, yet they also reveal considerable areas of convergence, including the protection of life, justice, family, and property. This study adopts a normative-juridical and comparative approach, examining primary sources of Sharia, international human rights treaties, and contemporary scholarly interpretations. It pays particular attention to the role of *maqāsid al-sharī'ah* and contextual *ijtihād* as interpretive tools for bridging divergences. The findings suggest that Sharia should not be perceived as a static code but as a dynamic tradition with the capacity for renewal when interpreted through its higher objectives. Reformist methodologies demonstrate significant potential for harmonization, though institutional initiatives such as the Cairo Declaration on Human Rights in Islam (1990) illustrate both progress and limitations.

Keywords

Sharia
Human Rights
International Law

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Received: May 12, 2025

Revised: October June, 2025

Accepted: July 6, 2025

Published: August 28, 2025

Introduction

The discourse on human rights has become one of the most pressing and contested issues in contemporary global legal scholarship (De Búrca & Young, 2023; Antai et al., 2024; Mukharrom & Abdi, 2023). Emerging in its modern form after the atrocities of the Second World War, the framework of international human rights law is grounded in universal declarations and binding treaties that emphasize equality, freedom, and dignity for all individuals. This normative system, consolidated through instruments such as the Universal Declaration of Human Rights (1948) and the twin Covenants of 1966, has gradually achieved near-universal acceptance, shaping the expectations of states and communities across the globe. At the same time, however, the application of international human rights law within different cultural and religious contexts remains deeply debated. One of the most enduring areas of tension lies in the relationship between international human rights and Sharia, the comprehensive legal and ethical system derived from Islamic revelation and jurisprudence (Faizi & Ali, 2024; Elmahjub, 2021; Setiawan et al., 2022).

Sharia occupies a unique position in the lives of Muslims, functioning not only as a legal framework but also as a moral and spiritual compass that shapes social and political order. Its divine source grants it a transcendental authority, rendering it more than a humanly constructed legal system. Within Sharia, human dignity (*karāmah insāniyyah*) is a central concern, and the protection of life, religion, intellect, lineage, and property is seen as the overarching objective of the law. Yet the manner in which these protections are articulated and applied does not always correspond neatly to the categories of rights recognized by international law. For example, while both systems prohibit arbitrary killing and affirm justice, debates persist over issues such as freedom of religion and gender equality, where interpretations of Sharia appear to diverge from international standards. These tensions have fueled not only scholarly debate but also political

controversy, particularly in Muslim-majority states that are simultaneously bound by religious obligations and international treaty commitments (Bukhari et al., 2024; Karimullah, 2023; Mohammed & Jureidini, 2022).

Existing scholarship reflects a divided landscape. Some commentators argue that Sharia and international human rights law are inherently incompatible due to their divergent epistemological foundations—one rooted in divine authority, the other in secular human consensus. Others, however, emphasize points of convergence and argue that through interpretive methodologies such as *maqāṣid al-sharīʿah* and contextual *ijtihād*, Sharia can be harmonized with international human rights norms. Initiatives such as the Cairo Declaration on Human Rights in Islam (1990) illustrate both the potential and the limitations of this harmonization. On the one hand, they reflect the desire to articulate rights within an Islamic framework; on the other, they reveal the challenges of reconciling the primacy of divine law with the universality of human rights (Fouz & Moniruzzaman, 2024; Dias, 2024; Sajir, 2023).

Against this backdrop, the present study seeks to critically examine human rights from the dual perspectives of Sharia and international law, with a particular focus on areas of convergence, divergence, and the potential for reconciliation. The central research problem can be formulated as follows: how can Sharia and international human rights law, despite their distinct foundations and points of tension, be understood as complementary frameworks in the protection and promotion of human dignity? To address this problem, the study employs a normative-juridical and comparative methodology, analyzing primary legal sources, international treaties, and scholarly interpretations within both traditions (Nawir et al., 2024; Harmono, 2024)

The purpose of this research is not merely to identify differences or to underscore incompatibilities, but rather to explore the possibility of dialogue and constructive synthesis. By situating Sharia within its theological and historical context while also recognizing the global legitimacy of international human rights law, the study aims to contribute to a more nuanced and balanced understanding of human rights. The findings are expected to enrich academic debates in both Islamic legal studies and international law while also offering practical insights for policymakers, jurists, and human rights practitioners operating in Muslim-majority states.

Ultimately, the significance of this study lies in its effort to move beyond polarized discourses of incompatibility and toward a more inclusive paradigm of human rights (Georgi, 2023; Galeotti & Sala, 2023). Such a paradigm recognizes the universality of human dignity while respecting the diversity of its normative justifications. In doing so, it aspires to contribute to the development of a human rights discourse that is not only globally resonant but also locally legitimate. 2009).

Methods

The methodology employed in this study is a normative-juridical approach with a comparative orientation, complemented by philosophical and historical dimensions to achieve a comprehensive understanding. The normative-juridical method is selected because the focus of this research lies in the examination of legal norms and doctrinal concepts, specifically the textual analysis of Islamic legal sources and international human rights instruments. This approach is highly relevant as the study does not seek to investigate empirical behavior within society, but rather to analyze normative principles and the philosophical foundations underpinning them. Within legal scholarship, the normative-juridical approach is frequently utilized to study both *ius constitutum* (the law as it exists) and *ius constituendum* (the law as it ought to be), making it particularly appropriate for uncovering how Sharia and international law conceptualize human rights both textually and theoretically.

The sources of data in this study are divided into three categories. First, primary legal sources, which include the Qur'an, Hadith, as well as classical and contemporary works of Islamic jurisprudence that explicitly or implicitly address issues of human dignity, justice, and the protection of individual and collective rights. On the side of international law, primary materials include the *Universal Declaration of Human Rights* (1948), the *International Covenant on Civil and Political Rights* (1966), the *International Covenant on Economic, Social, and*

Cultural Rights (1966), along with derivative instruments such as the *Convention on the Elimination of All Forms of Discrimination against Women* (1979) and the *Convention on the Rights of the Child* (1989). Second, secondary legal sources, including scholarly literature, research reports, and peer-reviewed journal articles that provide critical perspectives on the harmonization and tension between Sharia and international human rights law. Third, tertiary legal sources, such as legal dictionaries, encyclopedias, indexes, and legal databases that serve to support and contextualize the primary and secondary sources.

The comparative approach serves as the central analytical instrument of this research. By comparing the framework of *maqāṣid al-sharīʿah*—which emphasizes the protection of five essential values (religion, life, intellect, lineage, and property)—with the universal norms embedded in international human rights law, the study seeks to reveal the epistemological relationship between two legal regimes that are often perceived as fundamentally divergent. This comparative analysis moves beyond mere description, aiming to construct a theoretical synthesis that situates Sharia as a religious legal system with transcendental legitimacy, and international human rights law as a global legal system deriving its legitimacy from state consensus. In this sense, the research does not fall into simplistic dichotomies but instead aspires to establish a dialogical and critical framework.

The philosophical approach is applied to uncover the ontological, epistemological, and axiological foundations underlying the construction of human rights in both Islamic law and international law. This is crucial, as the divergence between the two often lies in their philosophical premises: Sharia is grounded in divine revelation, whereas international law is based on human rationality and global consensus. Philosophical analysis makes it possible to explore how both perspectives conceptualize human dignity (*karāmah insāniyyah*) and the rights inherently attached to it. Meanwhile, the historical approach is employed to trace the evolution of human rights discourse within the Islamic tradition—such as the *Constitution of Medina* (622 CE), often regarded as an early document of minority rights protection—and to compare it with the development of human rights in the Western tradition, ranging from the *Magna Carta* (1215) and the *Bill of Rights* (1689) to the *Declaration of the Rights of Man and of the Citizen* (1789), culminating in the *Universal Declaration of Human Rights* (1948) in the aftermath of the Second World War. Through this historical lens, the study underscores that human rights are not a monolithic concept but rather the result of a long dialectical process shaped by norms, history, and socio-political contexts.

Data analysis is conducted using a qualitative descriptive-analytical method, which not only presents the data but also interprets, compares, and synthesizes it. The process unfolds in three stages: (1) *data reduction*, which involves selecting and organizing relevant primary, secondary, and tertiary legal sources; (2) *interpretative analysis*, which entails interpreting the principles of Sharia and international human rights instruments through the theoretical frameworks of Islamic law (*maqāṣid al-sharīʿah*, *fiqh siyasah*, and *uṣūl al-fiqh*) as well as international law theories (positivism, natural law, and human rights universalism); and (3) *comparative synthesis*, which systematizes the findings to identify points of convergence and divergence between the two systems.

The choice of this methodology carries strong academic justification. An empirical approach alone would only yield insights into perceptions and practices of human rights within Muslim societies, without addressing the normative and conceptual dimensions that form the core of this inquiry. By employing a normative-juridical and comparative framework, this study contributes to two domains simultaneously: first, it enriches the academic discourse on the integration of Islamic law and international law; and second, it provides a conceptual foundation that may serve as a practical reference for reconciling national regulations in Muslim-majority states with international human rights obligations. In this way, the methodology is not only adequate to address the research questions but also strategically significant in bridging global debates on universalism versus particularism in human rights.

Results and Discussion

Foundational Perspectives of Human Rights: Sharia versus International Law

The results of this study show that the foundations of human rights in Sharia and in international law are anchored in a shared recognition of human dignity, yet they differ profoundly in their sources of legitimacy and modes of articulation.

In Sharia, rights are embedded in a theocentric paradigm: they are seen as divinely ordained through revelation (the Qur'an and the Sunnah), and interpreted by jurists through the methods of *fiqh* and *uṣūl al-fiqh*. The concept of rights in this framework is inseparable from duties, as every right is paired with moral or social responsibility. For instance, the right to property (*ḥifẓ al-māl*) entails an obligation to avoid exploitation (*ribā*) and to ensure redistribution through zakat and charity. Thus, in Sharia, rights are not abstract entitlements of the individual but functional elements within a larger moral order.

By contrast, international human rights law adopts an anthropocentric paradigm, deriving legitimacy from secular rationality and collective consensus, particularly through post-World War II instruments such as the *Universal Declaration of Human Rights* (1948). Here, rights are treated as inalienable, universal, and primarily individual, with obligations seen as secondary or derivative. This is evident in Article 1 of the UDHR, which states that all human beings are “born free and equal in dignity and rights,” without explicit reference to duties owed to God or community.

This divergence of epistemologies creates not merely differences in application but also different worldviews about the nature of human beings. Sharia views humans as moral agents accountable before God, while international law sees them primarily as autonomous individuals entitled to rights by virtue of their humanity.

Areas of Convergence: Shared Values and Principles

Despite these epistemological divides, the findings highlight strong convergence in substantive principles.

Right to Life

Sharia's prohibition against unlawful killing (Qur'an 5:32) closely parallels Article 3 of the UDHR. Both systems place the sanctity of human life at the center, though Sharia additionally frames life as a divine trust (*amānah*), not merely an individual possession.

Freedom of Religion

The Qur'anic principle *lā ikrāha fī al-dīn* (“there is no compulsion in religion,” Qur'an 2:256) resonates with Article 18 of the UDHR, which guarantees freedom of thought, conscience, and religion. Although interpretations vary, the textual basis provides significant grounds for convergence.

Equality and Non-Discrimination

The Prophet's Farewell Sermon proclaimed the equal worth of all humans regardless of ethnicity, anticipating the ethos of Article 1 UDHR on equality and dignity.

Social and Economic Rights

Sharia emphasizes distributive justice through mechanisms such as zakat, prohibition of usury, and protection of the poor, echoing the principles of the ICESCR (1966) concerning the right to social security, an adequate standard of living, and protection against exploitation.

Protection of Family and Lineage

Both systems view family as a fundamental unit of society deserving protection. Sharia prioritizes family through *ḥifẓ al-nasl* (protection of progeny), while international law emphasizes family rights in Article 16 UDHR and the Convention on the Rights of the Child (CRC 1989).

These parallels demonstrate that Sharia and international law are not inherently opposed but share significant substantive common ground, especially when Sharia is interpreted through the lens of *maqāṣid al-sharīʿah*.

Persistent Tensions and Areas of Divergence

While commonalities exist, there remain enduring points of divergence that fuel global debates:

Gender Equality

International law, particularly through CEDAW (1979), advocates for full equality between men and women in all spheres. Classical Sharia interpretations, however, maintain distinctions in inheritance (Qur'an 4:11), testimony, and guardianship roles. Some Muslim jurists defend these distinctions as divinely mandated, while reformist scholars argue for contextual reinterpretation using *maqāṣid* reasoning.

Freedom of Religion and Apostasy

Article 18 ICCPR protects an individual's absolute right to adopt or change religion. Classical Islamic jurisprudence criminalizes apostasy, often with capital punishment, though contemporary scholars increasingly question its applicability in modern contexts, arguing that the Qur'an affirms freedom of belief while punitive rulings emerged historically for reasons of political stability.

Freedom of Expression

International law (Article 19 UDHR) guarantees broad freedom of speech, limited only by restrictions necessary for public order. Sharia permits expression but imposes moral limits, prohibiting blasphemy, slander, and speech deemed harmful to community cohesion. This divergence becomes particularly visible in controversies surrounding depictions of the Prophet Muhammad in Western media, where Sharia-oriented perspectives demand restrictions while international law defends artistic freedom.

Secular Universality versus Theological Relativism

International law asserts universality irrespective of culture or religion, while Sharia ties rights to religious frameworks. This raises questions of whether "universality" is genuinely universal or implicitly Western in character.

These tensions reveal that divergences are not simply doctrinal but also **cultural and political**, as Muslim-majority states often face the dual challenge of adhering to international treaties while maintaining religious legitimacy domestically.

Attempts at Reconciliation and Emerging Discourses

he study also identifies a range of ongoing efforts aimed at reconciling Sharia with the framework of international human rights law. One prominent initiative is the *Cairo Declaration on Human Rights in Islam* (1990), which was intended to articulate human rights in explicitly Islamic terms. While the Declaration represents an important attempt to affirm the compatibility of Islam with global human rights discourse, it has been subject to critique for subordinating all rights to Sharia without offering a clear methodology of interpretation. This lack of clarity often leaves the Declaration open to restrictive readings that reinforce traditionalist positions rather than promoting genuine harmonization.

Beyond institutional declarations, reformist scholarship has increasingly turned to the concept of *maqāṣid al-sharīʿah* as a dynamic tool of interpretation. Contemporary thinkers such as Jasser Auda and Tariq Ramadan argue that by prioritizing the higher objectives of the law justice, human welfare (*maṣlaḥah*), and the preservation of dignity it becomes possible to reinterpret restrictive rulings on issues such as gender equality, freedom of belief, and civil liberties in ways that resonate with international human rights norms. This approach situates Sharia not as an obstacle but as a complementary moral framework capable of supporting universal values while retaining theological authenticity.

In parallel, the revival of *contextual ijtihād* has enabled jurists to argue that certain rulings historically considered immutable such as male guardianship or particular inheritance laws were in fact context-specific,

designed to meet the needs of early Muslim societies. From this perspective, the normative content of Sharia is not frozen in the seventh century but adaptable to new circumstances, allowing for reinterpretation that preserves fidelity to revelation while meeting the demands of contemporary justice.

Taken together, these initiatives demonstrate that Sharia should not be understood as a static code but rather as a dynamic tradition with the inherent capacity for renewal when approached through appropriate hermeneutical tools. They also illustrate that the apparent dichotomy between Sharia and international human rights law is less rigid than often assumed, provided that interpretive methodologies emphasize objectives, context, and the overarching principle of human dignity.

The comparative analysis of human rights within the perspectives of Sharia and international law demonstrates both significant convergences and profound divergences, yet it also reveals the possibility of meaningful reconciliation. At the most fundamental level, both systems affirm the centrality of human dignity as the foundation of rights, though they derive legitimacy from different sources. Sharia adopts a theocentric paradigm, situating human rights within divine revelation and coupling them with duties owed to God and community. By contrast, international human rights law rests on an anthropocentric paradigm, drawing its authority from rational consensus and framing rights primarily as individual entitlements. This epistemological divide has shaped the development of each system and continues to influence the way they are interpreted and applied.

Despite these foundational differences, there is substantial common ground. Both Sharia and international law protect the sanctity of life, uphold the value of justice, safeguard family and property, and recognize the principle of human equality. The Qur'anic injunctions against unlawful killing, the prohibition of compulsion in religion, and the Prophet's Farewell Sermon echo the values embedded in the *Universal Declaration of Human Rights* and subsequent treaties. Moreover, the *maqāṣid al-sharī'ah* preservation of religion, life, intellect, lineage, and property reflect a holistic ethical framework that resonates strongly with the categories of civil, political, social, and economic rights recognized in international law. These parallels highlight that Sharia, when read dynamically and through its higher objectives, provides not only compatibility but also a complementary moral and spiritual foundation for many universal human rights norms.

Yet the analysis also underscores persistent tensions that cannot be ignored. Questions of gender equality, freedom of expression, and freedom of religion—particularly the right to conversion or apostasy illustrate enduring divergences between the two systems. International law emphasizes absolute equality and expansive freedoms, while Sharia, at least in its classical interpretations, places restrictions grounded in moral and communal order. These differences are not merely legal but also cultural and political, as Muslim-majority states often navigate the dual imperatives of maintaining religious legitimacy while honoring their international treaty obligations.

Nevertheless, the study finds that such divergences are not insurmountable. The revival of *maqāṣid al-sharī'ah* and the growing emphasis on contextual *ijtihād* provide interpretive tools for bridging gaps. By prioritizing human welfare, justice, and dignity, contemporary scholars have reinterpreted traditional rulings in ways that align more closely with international human rights standards without abandoning theological authenticity. Although institutional attempts such as the Cairo Declaration on Human Rights in Islam (1990) have been criticized for subordinating rights uncritically to Sharia, the ongoing intellectual reform efforts demonstrate that Islamic law retains an inherent dynamism capable of engaging with global human rights discourse.

The implications of these findings are twofold. For Muslim-majority states, the challenge lies in implementing context-sensitive reforms that preserve religious identity while fulfilling international obligations, particularly in contested areas such as gender, family law, and religious freedom. For the international community, the challenge is to approach universality not as an imposition but as a dialogical process that respects cultural and religious legitimacy. Genuine universality must be enriched by plural justifications, including theological ones, if it is to gain global acceptance.

Ultimately, the discussion points toward the need for a dialogical paradigm in which Sharia and international human rights law are not framed as mutually exclusive but as normative systems that can converge on shared values while negotiating their differences. Such a paradigm does not aim to erase divergences but to transform them into opportunities for constructive engagement. In this sense, Sharia offers theological depth and moral grounding, while international human rights law provides a universalizing framework and institutional mechanisms for global protection. The intersection of the two thus opens the possibility of a richer, more inclusive human rights discourse one that is globally resonant yet locally legitimate.

Conclusion

This study concludes that the relationship between Sharia and international human rights law is marked by both shared commitments and enduring tensions. At their core, both systems affirm the inherent dignity of the human being, although they rest on distinct epistemological foundations. Sharia is grounded in divine revelation and moral responsibility, while international law is built on secular consensus and individual autonomy. These different paradigms have shaped contrasting emphases, with the Islamic framework placing duty alongside rights and the international order prioritizing rights as primary.

Despite this divergence, there exists substantial overlap in substantive principles. The protection of life, the safeguarding of family, the pursuit of justice, and the recognition of equality all find strong expression in both frameworks. When interpreted through the objectives of Sharia, or *maqāṣid al-sharīʿah*, Islamic law not only aligns with many universal norms but also offers an ethical depth that complements secular human rights discourse.

At the same time, certain points of conflict remain, particularly in matters of gender equality, religious freedom, and freedom of expression. These differences reflect not only doctrinal interpretation but also broader cultural and political dynamics within Muslim-majority societies. However, the study demonstrates that such tensions are not static. They can be addressed through reformist methodologies such as contextual *ijtihād* and *maqāṣid*-based reasoning, which allow for re-engagement with the sources of Sharia in ways that respond to contemporary realities.

The broader implication is that meaningful harmonization does not require one system to subsume the other. Rather, it calls for a dialogical paradigm that acknowledges difference while seeking common ground. For Muslim-majority states, this means embracing reforms that honor both religious legitimacy and international commitments. For the international community, it means recognizing that universality must be inclusive, culturally grounded, and enriched by diverse moral traditions.

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